

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
February 13, 2002 Session

**PEGGY GASTON v. TENNESSEE FARMERS MUTUAL INSURANCE
COMPANY**

**Appeal from the Circuit Court for McMinn County
No. 21,673 Lawrence H. Puckett, Judge**

FILED NOVEMBER 26, 2002

No. E2001-01487-COA-R3-CV

OPINION ON PETITION TO REHEAR

HOUSTON M. GODDARD, P.J., delivered the opinion of the court, in which HERSCHEL P. FRANKS and J. MICHAEL SWINEY, JJ., joined.

Tennessee Farmers Mutual Insurance Company has filed a petition to rehear, which principally contends the Court's original opinion was erroneous in that under the Underinsured Motorists Statute a suit may not be brought against the insurance carrier. Tennessee Farmers also points out that in the fourth line of the fifth paragraph on page 5 of our original opinion we used the words "tort-feasor," when we should have used the words "insurance carrier."

As to the second contention, the petition to rehear is granted and the original opinion is amended to correct this error, so that the sentence in question shall read, "It is true that Rutherford did not speak to this point, but does affirm a judgment against Tennessee Farmers under the uninsured motorists coverage when the insurance carrier was the only defendant sued." (See footnote 3 in original opinion.)

In all other respects the petition to rehear is denied at the cost of Tennessee Farmers Mutual Insurance Company.

HOUSTON M. GODDARD, PRESIDING JUDGE